

State of Utah  
Administrative Rule Analysis

## NOTICE OF PROPOSED RULE

The agency identified below in box 1 provides notice of proposed rule change pursuant to *Utah Code* Sections 63-46a-4. Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
Utah Admin. Code ref. (R no.):	R156-22-302d	Time filed:	
Changed to Admin. Code Ref. (R no.):			
1.	Agency: Commerce/Division of Occupational and Professional Licensing		
	Room no.:		
	Building: Heber M. Wells Building		
	Street address 1: 160 East 300 South		
	Street address 2:		
	City, state, zip: Salt Lake City UT 84111-2316		
	Mailing address 1: PO Box 146741		
	Mailing address 2:		
	City, state, zip: Salt Lake City UT 84114-6741		
	<b>Contact person(s):</b>		
	<b>Name:</b>	<b>Phone:</b>	<b>Fax:</b>
	Dan S. Jones	801-530-6721	801-530-6511
(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)			
2.	<b>Title of rule or section</b> (catchline):		
	Qualifications for Licensure - Examination Requirements		
3.	<b>Type of notice:</b>		
	New ____; Amendment XX; Repeal ____; Repeal and Reenact ____		
4.	<b>Purpose of the rule or reason for the change:</b>		
	The Division and the Professional Engineers and Professional Land Surveyors Licensing Board are proposing amendments to clarify that experience must be completed before an applicant is qualified to apply to sit for the respective examination.		
5.	<b>This change is a response to comments from the Administrative Rules Review Committee.</b>		
	Yes ____; No XX		
6.	<b>Summary of the rule change:</b>		

	<p>In paragraphs (1)(c), (2)(b) and (3)(b) amendments are proposed which clarify that an applicant is not qualified unless the experience is completed before the applicant submits an application to sit for the respective examination. The amendments being proposed are how the Division has been interpreting this requirement for years. However, a recent applicant successfully challenged the rule claiming that the determination date is the date of the exam rather than the date he applied for preapproval to sit for the exam. The model rule does not allow an applicant to anticipate completion of experience, but requires proof of completion on the application. According to the National Council of Examiners for Engineering and Surveying (NCEES), 46 states require the experience to be completed before preapproval to sit for the examination. The proposed amendments will keep Utah consistent with the vast majority of other states. The consistency is important to the engineering/land surveying profession which is quite mobile. Only about 40 percent of Utah licensed engineers/land surveyors are Utah residents. If Utah's requirements were different than other states, it could impair the ability of Utah engineers/land surveyors to become licensed in other states.</p>
7.	<p><b>Aggregate anticipated cost or savings to:</b></p> <p><b>A) State budget:</b></p> <p>The Division will incur minimal costs of approximately \$75 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.</p> <p><b>B) Local government:</b></p> <p>Proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. Proposed amendments only apply to potential licensees as either a professional engineer, professional structural engineer or professional land surveyor.</p> <p><b>C) Other persons:</b></p> <p>Overall the proposed amendments do not appear to substantially affect costs or savings to applicants for licensure as either a professional engineer, professional structural engineer or professional land surveyor since the clarification is not different than what has been enforced by the Division for year and the impact should be minimal.</p>
8.	<p><b>Compliance costs for affected persons</b>  ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization or any character other than an agency):</p> <p>Overall the proposed amendments do not appear to substantially affect costs or savings to applicants for licensure as either a professional engineer, professional structural engineer or professional land surveyor since the clarification is not different than what has been enforced by the Division for year and the impact should be minimal.</p>
9.	<p><b>Comments by the department head on the fiscal impact the rule may have on businesses:</b></p> <p>This rule filing clarifies the examination provisions to indicate that an applicant is not eligible to submit an application for pre-approval to sit for the examination unless the applicant submits proof with his application that he has completed the experience requirement. The clarification is intended to help the industry understand the Division's historical interpretation of its rule. Therefore, no fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director</p>
10.	<p><b>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.</b>  <b>State code or constitution citations (required):</b></p> <p>Section 58-22-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)</p>
11.	<p><b>This rule adds, updates, or otherwise changes the following titles of materials incorporated by references</b> (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank):</p>
12.	<p><b>The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i>. See Section 63-46a-5 and Rule R15-1 for more information.)</p>

	<b>A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):</b>	07/17/2006
	<b>B) A public hearing (optional) will be held:</b>	
	<b>on (mm/dd/yyyy):</b>	<b>at (time):</b>
	06/19/2006	9:00 a.m.
		<b>At (place):</b>
		160 East 300 South - Conference Room 474 (formerly 4A) - Salt Lake City, Utah
<b>13.</b>	<b>This rule change may become effective on (mm/dd/yyyy):</b>	07/25/2006
	NOTE: The date above is the date on which this rule MAY become effective. It is <i>NOT</i> the effective date. After the date designated in Box 12(A) above, the agency <i>must</i> submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	
<b>14.</b>	<b>Indexing information -- keywords</b> (maximum of four, in lower case, except for acronyms (e.g., "NASA") or proper nouns (e.g., "Medicaid")):	
	engineers	surveyors
	professional land surveyors	professional engineers
<b>15.</b>	<b>Attach an RTF document containing the text of this rule change (filename):</b>	R156-22.pro
<b>To the agency:</b> Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.		
<b>AGENCY AUTHORIZATION</b>		
<b>Agency head or designee, and title:</b>		<b>Date (mm/dd/yyyy):</b>

ProposedRule.doc 9/26/2003

**R156. Commerce, Occupational and Professional Licensing.**  
**R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rules.**  
**R156-22-302c. Qualifications for Licensure - Experience Requirements.**

(1) General Requirements. These general requirements apply to all applicants under this chapter and are in addition to the requirements in Subsections (2), (3) and (4) that are specific for the license applied for.

(a) Experience must be progressive on projects that are of increasing quality and requiring greater responsibility.

(b) Only experience of an engineering, structural engineering or surveying nature as appropriate for the license applied is acceptable.

(c) Experience is not acceptable if it is obtained in violation of applicable statutes or rules.

(d) Unless otherwise provided in Subsection (1)(e), experience shall be gained under the direct supervision of a person licensed in the profession for which the license application is for. Supervision of an intern by another intern is not permitted.

(e) Experience is also acceptable when obtained in a work setting where licensure is not required or is exempted from licensure requirements, including experience obtained in the armed services if:

(i) the experience is performed under the supervision of qualified persons and the applicant provides verifications of the credentials of the supervisor; and

(ii) the experience gained is equivalent to work performed by an intern obtaining experience under a licensed supervisor in a licensed or civilian setting and the applicant provides verification of the nature of the experience.

(f) The supervisor shall provide to the applicant the certificate of qualifying experience in a sealed envelope with the supervisor's seal stamped across the seal flap of the envelope which the applicant shall submit with the application for licensure.

(g) In the event the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board which shall demonstrate that the work was profession related work and was competently performed and the accumulated experience is sufficient for the applicant to be granted a license without jeopardy to the public health, safety or welfare.

(h) The applicant shall submit at least one additional verification of the qualifying experience from persons other than the supervisor which must be from a person licensed in the profession who has personal knowledge of the applicant's knowledge, ability and competence to practice in the profession applied for.

(i) Duties and responsibilities of a supervisor. The duties and responsibilities of the licensee under Subsection (1)(d) or other qualified person under Subsection (1)(e) who is providing supervision to an individual completing supervised experience for licensure include the following.

(i) A person may not serve as a supervisor for more than one firm.

(ii) A person who renders occasional, part time or consulting services to or for a firm may not serve as a supervisor.

(iii) The supervisor shall be in responsible charge of the projects assigned and is professionally responsible for the acts and practices of the supervisee.

(iv) The supervision is conducted in a setting in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised.

(v) The supervisor is available for advice, consultation and direction consistent with the standards and ethics of the profession.

(vi) The supervisor provides periodic review of the work assigned to the supervisee.

(vii) The supervisor monitors the performance of the supervisee for compliance with laws, standards and ethics applicable to the profession.

(viii) The supervisor provides supervision only to a supervisee who is an employee of a licensed professional or alternatively in a setting wherein both the supervisor and the supervisee is engaged in a work setting in which the work is exempt from licensure requirements.

(ix) The supervisor submits appropriate documentation to the division with respect to all work completed by the supervisee during the period of supervised experience, including the supervisor's evaluation of the supervisee's competence to practice in the profession.

(x) The supervisor assures each supervisee has obtained the degree which is a prerequisite to the intern beginning to obtain qualifying experience.

([1]2) Experience Requirements - Professional Engineer.

(a) In accordance with Subsection 58-22-302(1)(e), an applicant for licensure as a professional engineer shall complete the following qualifying experience requirements:

(i) Submit verification of qualifying experience, obtained while under the supervision of one or more licensed professional engineers, which experience has been certified by the licensed professional who provided the supervision documenting completion of a minimum of four ~~[calendar]~~ years of full time or equivalent part time qualifying experience in professional engineering approved by the division in collaboration with the board in accordance with the following:

(A) The qualifying experience must be obtained after meeting the education requirements.

(B) A maximum of three of the four years of qualifying experience may be approved by the board as follows:

(I) A maximum of three years of qualifying experience may be granted for teaching advanced engineering subjects in a college or university offering an engineering curriculum accredited by EAC\ABET.

(II) A maximum of three years of qualifying experience may be granted for conducting research in a college or university offering an engineering curriculum accredited by EAC/ABET provided the research is under the supervision of a licensed professional and is directly related to the practice of engineering. Double counting work as both education and experience is not permitted. Therefore research which is included as part of the classwork, thesis or dissertation or similar work is not acceptable.

(III) A maximum of one year of qualifying experience may be granted for completion of a masters degree in engineering provided that both the earned bachelors and masters degree in engineering meet the program criteria set forth in Subsection R156-22-302b(1).

(IV) A maximum of two years of qualifying experience may be granted for completion of a doctorate degree in engineering provided that both the earned bachelors or masters degree and

doctorate degree in engineering meet the program criteria set forth in Subsection R156-22-302b(1). [

~~(ii) The supervisor shall provide to the applicant the certificate of qualifying experience in a sealed envelope with the supervisor's engineer seal stamped across the seal flap of the envelope, which the applicant shall submit with the application for licensure.~~

~~(iii) In the event the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board which shall demonstrate that the work was engineering related work and was competently performed and the accumulated experience is sufficient for the applicant to be granted a license without jeopardy to the public health, safety or welfare.~~

~~(iv) The supervisor shall be engaged in a work setting in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised.~~

~~(v) The applicant shall submit at least one additional verification of the qualifying experience from persons other than the supervisor, which must be from a licensed engineer who has personal knowledge of the applicant's knowledge, ability and competence to practice professional engineering.]~~

(b) The performance or supervision of construction work as a contractor, foreman or superintendent is not qualifying experience for licensure as a professional engineer.

(c) ~~[Full or part time employment, research, or teaching for periods of time less than ten weeks in length will not be considered as qualifying experience.]~~ Experience should include demonstration of knowledge of, application of and practical solutions using engineering mathematics, physical and applied science, properties of materials and the fundamental principles of engineering design.

([2]3) Experience Requirements - Professional Structural Engineer.

(a) In accordance with Subsection 58-22-302(2)(e), each applicant shall submit verification of three years of full time or equivalent part time professional structural engineering experience obtained while under the supervision of one or more licensed professional structural engineers, which experience is certified by the licensed structural engineer supervisor and is in addition to the qualifying experience required for licensure as a professional engineer.

(b) Professional structural engineering experience shall include responsible charge of structural design in one or more of the following areas:

(i) structural design of any building or structure two stories and more, or 45 feet in height, located in a region of moderate or high seismic risk designed in accordance with current codes adopted pursuant to Section 58-56-4;

(ii) structural design for a major seismic retrofit/rehabilitation of an existing building or structure located in a region of moderate or high seismic risk; or

(iii) structural design of any other structure of comparable structural complexity.

(c) Professional structural engineering experience shall include structural design in all of the following areas:

(i) use of three of the following four materials as they relate to the design, rehabilitation or investigation of buildings or structures:

(A) steel;

(B) concrete;

(C) wood; or

(D) masonry;

(ii) selection of framing systems including the consideration of alternatives and the selection of an appropriate system for the interaction of structural components to support vertical and lateral loads;

(iii) selection of foundation systems including the consideration of alternatives and the selection of an appropriate type of foundation system to support the structure;

(iv) design and detailing for the transfer of forces between stories in multi-story buildings or structures;

(v) application of lateral design in the design of the buildings or structures in addition to any wind design requirements; and

(vi) application of the local, state and federal code requirements as they relate to design loads, materials, and detailing. [

~~—(d) The supervisor shall provide to the applicant the certificate of qualifying experience in a sealed envelope with the supervisor's engineer seal stamped across the seal flap of the envelope, which the applicant shall submit with the application for licensure.~~

~~—(e) In the event the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board which shall demonstrate that the work was engineering related work and was competently performed and the accumulated experience is sufficient for the applicant to be granted a license without jeopardy to the public health, safety or welfare.~~

~~—(f) The supervisor shall be engaged in a work setting in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised~~

~~—(g) The applicant shall submit at least one additional verification of the qualifying experience from persons other than the supervisor, which must be from a licensed professional structural engineer who has personal knowledge of the applicant's knowledge, ability and competence to practice professional structural engineering.]~~

([3]4) Experience Requirements - Professional Land Surveyor.

(a) In accordance with Subsections 58-22-302(3)(d), an applicant for licensure as a professional land surveyor shall complete the following qualifying experience requirements:

(i) Submit verification of qualifying experience obtained under the supervision of one or more licensed professional land surveyors who have provided supervision, which experience is certified by the licensed professional land surveyor supervisor and is in accordance with the following:

(A) Applicants who have met the education requirements in Subsection 58-22-302(3)(d)(i) shall document four years of full time or equivalent part time qualifying experience in land surveying which experience may be obtained before, during or after completing the education requirements for licensure.

(B) Prior to January 1, 2007, applicants who did not complete the education requirements in Subsection 58-22-302(3)(d)(i) shall document eight years of qualifying experience in land surveying.

(b) The four years of qualifying experience required in R156-22-302c(3)(a)(i)(A) and four of the eight years required in R156-22-302c(3)(a)(i)(B) shall comply with the following:

(i) Two years of experience should be specific to field surveying with actual "hands on" surveying, including all of the following:

- (A) operation of various instrumentation;
- (B) review and understanding of plan and plat data;
- (C) public land survey systems;
- (D) calculations;
- (E) traverse;
- (F) staking procedures;
- (G) field notes and manipulation of various forms of data encountered in horizontal and vertical studies; and

(ii) Two years of experience should be specific to office surveying, including all of the following:

- (A) drafting (includes computer plots and layout);
- (B) reduction of notes and field survey data;
- (C) research of public records;
- (D) preparation and evaluation of legal descriptions; and
- (E) preparation of survey related drawings, plats and record of survey maps.

(c) The remaining qualifying experience required in R156-22-302c(3)(a)(i)(B) shall include any aspects of the practice of land surveying under the supervision of a licensed professional land surveyor in accordance with Subsection 58-22-102(16). [

~~—(d) Full or part time employment for periods of time less than ten weeks in length will not be considered as qualifying experience.~~

~~—(e) The supervisor shall provide to the applicant the certificate of qualifying experience in a sealed envelope with the supervisor's land surveyor seal stamped across the seal flap of the envelope, which the applicant shall submit with the application for licensure.~~



~~——(f) In the event the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board which shall demonstrate that the work was land surveying related work and was competently performed and the accumulated experience is sufficient for the applicant to be granted a license without jeopardy to the public health, safety or welfare.~~

~~——(g) The supervisor shall be engaged in a work setting in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised~~

~~——(h) The applicant shall submit at least one additional verification of the qualifying experience from persons other than the supervisor, which must be from a licensed professional land surveyor who has personal knowledge of the applicant's knowledge, ability and competence to practice professional land surveying.]~~

**KEY: engineers, surveyors, professional land surveyors, professional engineers**

**Date of Enactment or Last Substantive Amendment: [April 3,] 2006**

**Notice of Continuation: January 13, 2003**

**Authorizing, and Implemented or Interpreted Law: 58-22-101; 58-1-106(1)(a); 58-1-202(1)(a)**